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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Nepal

1. The Committee considered the ninth to the thirteenth periodic reports of Nepal (CERD/C/298/Add.1), at its 1292nd meeting, on 13 August 1998. At its 1301st meeting, on 20 August 1998, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to resume the dialogue with Nepal after a lapse of 11 years. The Committee notes with appreciation that the report submitted by the State party is a comprehensive document complying with the Committee's general guidelines. The Committee welcomes the frankness and self-critical approach of the report and the constructive dialogue with the State party's delegation.

B. Factors and difficulties impeding the implementation of the Convention

3. It is noted that Nepal, one of the least developed countries of the world, is a highly multi-ethnic and multicultural society. It is also noted that the widespread poverty and the presence of a large number of refugees from neighbouring countries may affect the full implementation of the Convention in the State party.

C. Positive aspects

4. The enactment of Nepal's new Constitution (1990), which guarantees basic human rights to every citizen, creates a constitutional monarchy and a system of multi-party democracy, and establishes an independent judiciary, is welcomed. The incorporation of the Convention in the Nepalese Constitution (1990) is appreciated by the Committee.

5. The enactment of the law establishing a Human Rights Commission in 1997 as well as the establishment of the Foreign Affairs, Human Rights, Population and Social Committees of Parliament are welcomed.

6. The State party's openness and willingness to collaborate with non-governmental organizations in its efforts to eliminate racial discrimination are appreciated by the Committee.

7. The willingness of the State party to disseminate its report as well as the concluding observations of the Committee among non-governmental organizations and the public at large is noted with appreciation.

D. Principal subjects of concern

8. The Committee notes the lack of clarity of the information provided by the report on the demographic composition of State party and, in particular, on the composition of the population according to caste, religion and geographical regions.

9. The Committee expresses its concern at the insufficiency of information provided on the full implementation of article 4 of the Convention, especially on how this principle is reflected in other domestic legislation (for example, the Penal Code) and is applied by judges, lawyers and civil servants.

10. The Committee, having noted that the caste system in Nepal has been abolished by law, nevertheless expresses its concern that this system still functions and appears embedded in parts of the Nepalese culture. In this connection, the Committee is also concerned at the limitation that this system imposes on the effective enjoyment by all groups of the rights enshrined in article 5 of the Convention.

11. With regard to the implementation of article 6 of the Convention, the Committee expresses its concern at the lack of clarity concerning the jurisdiction of the Supreme Court vis-à-vis lower courts in cases of racial discrimination, and that members of the public may not be sufficiently aware of the protections against racial discrimination provided by the Convention and by local remedies. In this connection, the lack of information on complaints concerning racially motivated offences as well as the absence in courts of lawsuits alleging racial discrimination may indicate that awareness of the Convention is not high among judges, lawyers and the public at large.

12. The Committee is concerned about the situation and condition of the 100,000 refugees from Bhutan in Nepal.

E. Suggestions and recommendations

13. The Committee recommends that the State party in its next report provide fuller information on the demographic composition of the population in the light of paragraph 8 of the reporting guidelines. The Committee requests the State party to provide information in its next periodic report on the implementation of practical measures to eradicate the practice of the caste system.

14. With regard to the implementation of article 2 of the Convention, the Committee, while welcoming the State party's initiatives, including its affirmative action programmes aimed at improving the living conditions of the less developed groups, invites the State party to provide information on the results of these initiatives in its next periodic report.

15. In view of the State party's declaration on articles 4 and 6 of the Convention, the Committee repeats its suggestion to the State party that it avail itself of the possibility, under article 20, paragraph 3, of the Convention, to withdraw its reservations in order to ensure the full applicability of the provisions of articles 4 and 6.

16. The Committee requests the State party to provide information in its next periodic report on the implementation of article 4 of the Convention, especially on how it is reflected in domestic legislation (for example, the Penal Code) and applied by judges, lawyers and civil servants.

17. The Committee recommends that comprehensive information be provided by the State party in its next periodic report on the effective enjoyment by all groups of the rights under article 5 of the Convention, in particular concerning participation in public life under article 5 (c) and enjoyment of economic, social and cultural rights under article 5 (e). For this purpose, the Committee recommends that national or ethnic minority associations in the State party be consulted on their experiences regarding these matters.

18. Emphasizing the role of the judicial system in eliminating racial discrimination, the Committee requests the State party to provide information in its next periodic report on the existing legal mechanisms available to lodge complaints in cases of racial discrimination, including information on the role of the Supreme Court and lower courts as well as the legal aid system. Additionally, the Committee requests the State party to provide information on measures undertaken or envisaged for improving public awareness of the Convention.

19. More information concerning the composition and activities of the Human Rights Commission and the above-mentioned parliamentary bodies as well as the result of their activities in the elimination of racial discrimination in Nepal would also be appreciated.

20. In connection with the implementation of article 7 of the Convention, the Committee recommends that the State party take all necessary measures to ensure the training and education of law enforcement officials, teachers, social workers and students in the prevention of racial discrimination, and to include the teaching of human rights in school curricula.

21. The Committee calls upon the State party to fully observe the human rights of refugees and displaced persons of Bhutan and to negotiate with the Government of Bhutan towards a peaceful solution of this important issue.

22. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

23. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

24. The Committee recommends that the State party's next periodic report, which was due on 1 March 1998, be an updating report and that it address all the points raised in these concluding observations and during the consideration of the report.